

House File 110 - Introduced

HOUSE FILE 110

BY ISENHART and HUNTER

A BILL FOR

1 An Act relating to assisted living programs, and including
2 effective date provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 231C.2, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. "*Assisted living*" means provision of housing
4 with services which may include but are not limited to
5 health-related care, personal care, and assistance with
6 instrumental activities of daily living to three or more
7 tenants in a physical structure which provides a homelike
8 environment.

9 a. "*Assisted living*" also includes encouragement of family
10 involvement, tenant self-direction, and tenant participation
11 in decisions that emphasize choice, dignity, privacy,
12 individuality, shared risk, and independence.

13 b. "*Assisted living*" includes the provision of housing and
14 assistance with instrumental activities of daily living only if
15 personal care or health-related care is also included.

16 c. "*Assisted living*" includes twenty-four hours per
17 day response staff to meet scheduled and unscheduled or
18 unpredictable needs in a manner that promotes maximum dignity
19 and independence and provides supervision, safety, and
20 security.

21 d. "*Assisted living*" includes a physical structure that
22 provides housing to three or more tenants in which tenants
23 receive services as described in paragraph "b" from a service
24 provider contracting with the housing provider or contracting
25 with or employed by the tenant if both of the following
26 conditions are met:

27 (1) The service provider has a direct or indirect corporate
28 affiliation with at least one entity involved in the ownership
29 or operation of the housing.

30 (2) At least fifty percent of the tenants receive at least
31 one service from a service provider described in subparagraph
32 (1).

33 Sec. 2. Section 231C.3, subsection 3, Code 2011, is amended
34 to read as follows:

35 3. a. The owner or manager of a certified assisted living

1 program shall comply with the rules adopted by the department
2 for an assisted living program.

3 b. A person including a governmental unit, that meets the
4 definition of assisted living pursuant to section 231C.2 shall
5 be considered an assisted living program whether or not the
6 person represents the person to the public as an assisted
7 living program or as a certified assisted living program, and
8 shall not operate in this state unless and until the assisted
9 living program is certified pursuant to this chapter.

10 c. A person, including a governmental unit shall not
11 represent an assisted living program to the public as an
12 assisted living program or as a certified assisted living
13 program unless and until the program is certified pursuant to
14 this chapter.

15 Sec. 3. Section 231C.3, subsection 4, paragraph a, Code
16 2011, is amended to read as follows:

17 a. Services provided by a certified assisted living program
18 may be provided directly by staff of the assisted living
19 program, by individuals contracting with the assisted living
20 program to provide services, or by individuals employed by
21 the tenant or with whom the tenant contracts if the tenant
22 agrees to assume the responsibility and risk of the employment
23 or the contractual relationship. Any provider of services
24 for an assisted living program, by whatever means employed
25 or contracted, shall be subject to oversight and regulation
26 applicable to staffing of an assisted living program.

27 Sec. 4. Section 231C.5, subsection 2, paragraphs b and h,
28 Code 2011, are amended to read as follows:

29 b. A statement regarding the impact of the fee structure
30 on third-party payments, and whether third-party payments and
31 resources are accepted by the assisted living program. The
32 occupancy agreement shall also include a statement regarding
33 whether third-party payment is a basis for involuntary transfer
34 or transfer and the program's policy regarding retention
35 or involuntary transfer or transfer of a tenant following

1 depletion of private resources. A tenant residing in an
2 assisted living program prior to the effective date of this
3 Act shall not be subject to involuntary transfer or transfer
4 based solely on source of payment, unless the occupancy
5 agreement entered into prior to that date specifically provided
6 otherwise and was signed by the tenant or the tenant's legal
7 representative. An assisted living program shall amend any
8 occupancy agreement entered into prior to the effective date
9 of this Act to reflect the requirements of this paragraph and
10 shall obtain the signature of the tenant or the tenant's legal
11 representative acknowledging the amendment to the occupancy
12 agreement no later than one hundred twenty days after the
13 effective date of this Act.

14 *h.* (1) Occupancy, involuntary transfer, and transfer
15 criteria and procedures, which ensure a safe and orderly
16 transfer.

17 (2) Involuntary transfer and transfer criteria, including
18 criteria relating to third-party payments and resources,
19 shall be explicitly stated in the occupancy agreement and
20 shall also be included in a separate cover letter to the
21 occupancy agreement and signed by the tenant or tenant's legal
22 representative at the time of initial tenancy. An assisted
23 living program shall amend any occupancy agreement entered
24 into prior to the effective date of this Act to reflect
25 the requirements of this subparagraph and shall obtain the
26 signature of the tenant or the tenant's legal representative
27 acknowledging the amendment to the occupancy agreement no later
28 than one hundred twenty days after the effective date of this
29 Act.

30 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
31 immediate importance, takes effect upon enactment.

32 EXPLANATION

33 This bill relates to assisted living programs.

34 The bill amends the definition of "assisted living" to
35 provide that assisted living includes a physical structure

1 that provides housing to three or more tenants, in which
2 tenants receive services defined as assisted living services
3 from a provider contracting with the provider of the housing
4 or contracting with or employed by the tenant, if both of
5 the following conditions are met: the service provider has
6 a direct or indirect corporate affiliation with at least one
7 entity involved in the ownership or operation of the housing;
8 and at least 50 percent of the tenants receive at least one
9 service from such service provider.

10 The bill also provides that a person that meets the
11 definition of "assisted living" shall be considered an assisted
12 living program whether or not the entity represents the entity
13 to the public as an assisted living program or a certified
14 assisted living program, and shall not operate in the state
15 unless and until the assisted living program is certified.
16 Any provider of assisted living services, however employed or
17 contracted, is subject to oversight and regulation applicable
18 to staffing of an assisted living program.

19 The bill amends provisions relating to occupancy agreements
20 for tenants of assisted living programs. The bill provides
21 that the occupancy agreement is to include a statement
22 regarding whether third-party payment is a basis for
23 involuntary transfer or transfer, and the program's policy
24 regarding retention or involuntary transfer or transfer of a
25 tenant following depletion of private resources. Under the
26 bill, a tenant residing in an assisted living program prior
27 to the effective date of the bill, is not to be subject to
28 involuntary transfer or transfer based solely on source of
29 payment, unless the occupancy agreement entered prior to
30 that date specifically provides otherwise and the tenant or
31 tenant's legal representative signed the occupancy agreement.
32 Additionally, the occupancy agreement is to explicitly state
33 involuntary transfer and transfer criteria, including criteria
34 relating to third-party payment and resources, and this
35 information is also required to be in a separate cover letter

1 to the occupancy agreement and signed by the tenant or tenant's
2 legal representative at the time of initial tenancy. Assisted
3 living programs are required to amend occupancy agreements
4 entered into prior to the effective date of the bill to reflect
5 the requirements and obtain the signature of the tenant or
6 the tenant's legal representative on the amended occupancy
7 agreements no later than 120 days after enactment of the bill.
8 The bill takes effect upon enactment.